

REMARKS

Claims 1 and 52 have been amended. New claims 70-73 have been added. After amending the claims as set forth above, claims 1-23 and 49-73 are now pending in this application.

I. Interview Summary

Applicant expresses appreciation to the Examiner (Mr. Phillip Gray) for the courtesy of the interview conducted on July 16, 2010 with the Applicant's representative (Mr. Ted Rittmaster).

In the interview, the pending rejections were discussed. In addition, Applicant's representative pointed out that the pending rejections correspond to the rejections that appear to have been withdrawn, following Applicant's submission of an Appeal Brief dated September 5, 2008. The Examiner proposed that the claims be amended to indicate that the sensor in the claims is not a device that records images (not an image recording device). The Examiner stated that the claims would be allowable over the prior art of record, if amended in that manner.

Accordingly, claim amendments are submitted herewith, consistent with the interview. New dependent claims 70-73 are added and recite features that further distinguish those claims from an image recording device. Applicant requests that the application be allowed, at least for reasons discussed in the interview.

II. Claim Rejections – 35 U.S.C. § 103

Claims 1-11, 14-23, and 49-69 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Barry (US Pat. Appln. No. US2002/0077592 A1) in view of Adair et al. (US Pat. 6,211,904). Claims 12 and 13 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Barry in view of Adair et al. and further in view of Silver (U.S. Pat. 6,442,423). These rejections are respectfully traversed as follows.

Consistent with the discussion with the Examiner during the above-referenced telephone interview, claims 1 and 52 are amended herein to recite that the sensor is not an image recording device. In contrast, the image forming device or endoscope described by Adair is configured to record an image (a visual image) of the site at which Adair et al.'s tube 14 is placed. The Barry

and Silver references do not address the distinctions noted above. It is submitted that claims 1 and 52 are patentably distinguished over the references of record, including Barry, Adair et al. and Silver, considered individually or in the combinations proposed by the Examiner.

It is believed that the claims are amended herein in the manner in which the Examiner approved for allowance during the above-referenced telephone interview. Accordingly, it is submitted that claims 1 and 52, as amended herein, are in condition for allowance. Claims 2-23, 49-51 and 53-69 are each dependent (directly or indirectly) on one of the base claims 1 and 52. Accordingly, each of those dependent claims is in condition for allowance, at least for reasons for which their respective base claim 1 or 52 is allowable, as well as for additional reasons apparent from the language of those dependent claims. For example, claim 14 recites that the sensor is a glucose analyte sensor. In contrast, Adair et al.'s imaging device is not a glucose analyte sensor. Therefore, the rejections of claims 1-23 and 49-69 are respectfully traversed.

In addition, it is submitted that the claims are distinguished from the references of record, including Barry, Adair et al. and Silver, for reasons as discussed in Applicant's Appeal Brief dated November 5, 2008, which is incorporated herein by reference.

III. New Claims:

New claims 70-73 are added to further protect aspects of the claimed invention. New claims 70-73 are supported by the original disclosure and drawings (e.g., at least with respect to paragraphs [0029], [0030]). Each of new claims 70-73 is dependent on claim 1 and, thus, patentably distinct from the references of record, at least for reasons discussed above with respect to claim 1. In addition, new claims 70-73 are further distinguished from the references of record.

For example, new claim 70 recites that the sensor comprises a biochemical parameter sensor or a chemical parameter sensor. Adair et al.'s imaging device merely records an image of whatever is placed in front of the lens and, thus, is not a biochemical parameter sensor or a chemical parameter sensor.

New claim 71 recites that the sensor comprises a device that performs electrochemical measurements. New claim 72 recites that the sensor comprises an oxygen sensor. New claim 73

recites that the sensor comprises a catalyst or enzyme that reacts to a biological or chemical parameter. Sensors that perform electrochemical measurements, that sense oxygen and that include a catalyst or enzyme that reacts to a biological or chemical parameter are described in U.S. Patent Application No. 10/036,093 (now U.S. Patent No. 6,915,147), which is cited and incorporated by references in paragraph [0029] of the present application. Adair et al.'s imaging device records an image, but does not perform electrochemical measurements, sense oxygen, or include a catalyst or enzyme that reacts to a biological or chemical parameter. Accordingly, new claims 70-73 are further distinguished from the references of record.

IV. Conclusion:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment instructions in EFS-Web being incorrect or absent, resulting in a rejected or incorrect credit card transaction, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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